



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2019-0377; FRL-10000-40-Region 5]

Air Plan Approval; Indiana; Second Maintenance Plan for 1997

Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision. On June 20, 2019, the Indiana Department of Environmental Management (IDEM) submitted the State's plan for maintaining the 1997 ozone National Ambient Air Quality Standards (NAAQS or standard) in the following areas: Indianapolis, La Porte County, and South Bend-Elkhart areas in Indiana; and the Indiana portions of the Chicago-Gary-Lake County, IL-IN (Chicago), Cincinnati-Hamilton, OH-KY-IN (Cincinnati), and Louisville, KY-IN (Louisville) multi-state areas. EPA is proposing to approve these maintenance plans because they provide for the maintenance of the 1997 ozone NAAQS through the end of the second 10-year maintenance period. This action, when finalized would make certain commitments related to maintenance of the 1997 ozone NAAQS in these areas federally enforceable as part of the Indiana SIP.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket No. EPA-EPA-R05-OAR-2019-0377 at <https://www.regulations.gov> or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

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SUPPLEMENTARY INFORMATION: Throughout this document, the terms "we", "us", and "our" refer to the EPA.

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I. Summary of EPA's Proposed Action

EPA is proposing to approve the 1997 ozone NAAQS maintenance plans for the following areas: Indianapolis, La Porte County, South Bend-Elkhart, and the Indiana portions of the Chicago, Cincinnati, and Louisville multi-state areas. The maintenance plans are designed to keep these areas in attainment of the 1997 ozone NAAQS through the end of the second 10-year maintenance period.

II. Background

Ground-level ozone is formed when oxides of nitrogen (NO_x) and volatile organic compounds (VOC) react in the presence of sunlight. These two pollutants are referred to as ozone precursors. Scientific evidence indicates that adverse public health effects occur following exposure to ozone.

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997, EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. 62 FR 38856 (July 18, 1997).¹ EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 15, 2004 (69 FR 23857), EPA designated areas for the 1997 ozone NAAQS, including

¹ In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015)

the following areas in Indiana which were designated as nonattainment: Indianapolis (Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan and Shelby Counties), La Porte County, South Bend-Elkhart (Elkhart and St. Joseph Counties), Chicago (Lake and Porter Counties in Indiana)², Cincinnati (Lawrenceburg Township in Dearborn County, Indiana)³, and Louisville (Clark and Floyd Counties in Indiana).⁴ These designations became effective on June 15, 2004. Under the CAA, states are also required to adopt and submit SIPs to implement, maintain, and enforce the NAAQS in designated nonattainment areas and throughout the state.

When a nonattainment area has three years of complete, certified air quality data that has been determined to attain the 1997 ozone NAAQS, and the area has met other required criteria described in section 107(d)(3)(E) of the CAA, the state can submit to EPA a request to be redesignated to attainment, referred to as a "maintenance area".⁵

² The entire Chicago (IL-IN) area includes Cook, DuPage, Kane, Lake, McHenry and Will Counties, Aux Sable and Goose Lake Townships in Grundy County, and Oswego Township in Kendall County in Illinois.

³ The entire Cincinnati (OH-KY-IN) area includes Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio; and Boone, Campbell, and Kenton Counties in Kentucky.

⁴ The entire Louisville (KY-IN) area includes Bullitt, Jefferson and Oldham Counties in Kentucky.

⁵ Section 107(d)(3)(E) of the CAA sets out the requirements for redesignation. They include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance and such contingency provisions as necessary to assure that violations of the standard will be promptly corrected. At the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years. CAA section 175A. EPA has published long-standing guidance for states on developing maintenance plans. This includes "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the "Calcagni Memorandum").

The Calcagni Memorandum provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (i.e., attainment year inventory). See Calcagni Memorandum at 9.

EPA approved maintenance plans for the following areas and redesignated them to attainment of the 1997 ozone NAAQS: the Indiana portion of Louisville, La Porte County, and South Bend-Elkhart effective July 19, 2007 (72 FR 39571, 39574, 39577); Indianapolis, effective October 19, 2007 (72 FR 59210); and the Indiana portions of Chicago and Cincinnati effective May 11, 2010 (75 FR 26113, 26118).

Under CAA section 175A(b), states must submit a revision to the first maintenance plan eight years after redesignation to provide for maintenance of the NAAQS for ten additional years following the end of the first 10-year period. EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (i.e., maintenance areas) for the 1997 standard no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).⁶ However, in *South Coast Air Quality Management District v. EPA*⁷ (South Coast II), the D.C. Circuit vacated EPA's interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for "orphan maintenance areas," i.e., areas that had been redesignated to attainment for the 1997 NAAQS and were designated attainment for

⁶ See 80 FR 12315 (March 6, 2015).

⁷ 882 F.3d 1138 (D.C. Cir. 2018)

the 2008 ozone NAAQS. Thus, states with these "orphan maintenance areas" under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period. Accordingly, on June 20, 2019, IDEM submitted second maintenance plans for the Indianapolis, La Porte County, and South Bend-Elkhart areas and the Indiana portions of the Chicago, Cincinnati, and Louisville areas. The maintenance plans show that each area is expected to remain in attainment of the 1997 ozone NAAQS through the end of the full 20-year maintenance period.

III. EPA's Evaluation of Indiana's SIP Submittal

A. Second Maintenance Plan

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency

measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) an attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.

On June 20, 2019, IDEM submitted, as a SIP revision, a plan to provide for maintenance of the 1997 ozone standard in Indianapolis, La Porte County, South Bend-Elkhart, and Louisville areas through 2028, more than 20 years after the effective date of redesignation to attainment. Likewise, the revision to Indiana's SIP provides for maintenance of the standard for Chicago and Cincinnati areas through 2030, more than 20 years after the effective date of redesignation to attainment. As discussed below, EPA finds that Indiana's second maintenance plan includes the necessary components and proposes approve the maintenance plan as a revision to the Indiana SIP.

1. Attainment Inventory

For maintenance plans, a state should develop a comprehensive, accurate inventory of actual emissions for an attainment year to identify the level of emissions which is sufficient to maintain the NAAQS. A state should develop this

inventory consistent with EPA's most recent guidance on emissions inventory development. For ozone, the inventory should be based on typical summer day VOC and NO_x emissions, as these pollutants are precursors to ozone formation.

The CAA section 175A maintenance plans approved by EPA for the first 10-year periods included attainment inventories that reflect typical summer day VOC and NO_x emissions for the following attainment years: Indianapolis, 2005; La Porte County, 2004; South Bend-Elkhart, 2004; the Indiana portion of Chicago, 2006; the Indiana portion of Cincinnati, 2008; and the Indiana portion of Louisville, 2003. In addition, because all of the maintenance areas in Indiana continued to monitor attainment of the 1997 ozone NAAQS in 2014, this is also an appropriate year to use for an attainment year inventory. As such, IDEM is using 2014 summer day emissions from EPA 2014 version 7.0 modeling platform as the basis for the attainment inventory⁸ presented in Tables 1-6 below. Tables 1 through 6 show VOC and NO_x emission totals for all sectors for each maintenance area. These data are based on the most recently available National Emissions Inventory (2014 NEI version 2).

⁸The inventory documentation for this platform can be found here: <https://www.epa.gov/air-emissions-modeling/2014-version-70-platform>.

Table 1. Indianapolis area typical summer day VOC and NO_x emissions for attainment year 2014 in tons per day (tpd)

Source Category	VOC	NO_x
Nonroad	20.21	27.64
Onroad	53.04	110.53
Point	5.31	29.68
Area	66.47	9.26
Total	145.03	177.11

Table 2. La Porte County area typical summer day VOC and NO_x emissions for attainment year 2014 (tpd)

Source Category	VOC	NO_x
Nonroad	2.83	2.42
Onroad	3.96	10.55
Point	1.33	3.83
Area	5.73	4.46
Total	13.85	21.96

Table 3. South Bend-Elkhart area typical summer day VOC and NO_x emissions for attainment year 2014 (tpd)

Source Category	VOC	NO_x
Nonroad	5.74	6.64
Onroad	12.66	23.35
Point	6.23	2.71
Area	22.86	6.14
Total	47.49	38.84

Table 4. Louisville area typical summer day VOC and NO_x emissions for attainment year 2014 (tpd)

	Source Category	VOC	NO_x
Indiana portion of area (Clark and Floyd counties)	Nonroad	1.99	2.19
	Onroad	4.83	12.31
	Point	2.02	4.60
	Area	9.70	0.95
	Total	18.54	20.05
Entire area	Nonroad	9.61	10.98
	Onroad	25.03	52.13
	Point	32.49	59.71
	Area	50.94	10.27
	Total	118.07	133.09

Table 5. Cincinnati area typical summer day VOC and NO_x emissions for attainment year 2014 (tpd)

	Source Category	VOC	NO_x
Indiana portion of area (Dearborn county)	Nonroad	0.47	0.53
	Onroad	1.76	3.94
	Point	5.54	9.62
	Area	1.39	0.20
	Total	9.16	14.29
Entire area	Nonroad	20.39	22.30
	Onroad	39.23	82.20
	Point	15.73	91.69
	Area	79.97	20.60
	Total	155.32	216.79

Table 6. Chicago area typical summer day VOC and NO_x emissions for attainment year 2014 (tpd)

	Source Category	VOC	NO_x
Indiana portion of area (Lake and Porter counties)	Nonroad	18.08	15.66
	Onroad	11.59	28.05
	Point	12.99	71.24
	Area	20.00	12.52
	Total	62.66	127.47
Entire area	Nonroad	94.43	96.73
	Onroad	129.41	258.94
	Point	51.33	146.39
	Area	225.47	97.50
	Total	500.64	599.57

2. Maintenance Demonstration

IDEM is demonstrating maintenance through 2028 by showing that future emissions of VOC and NO_x for the Indianapolis, La Porte County, South Bend-Elkhart, and Louisville areas remain at or below attainment year emission levels. 2028 is an appropriate maintenance year for these areas because it is more than 10 years beyond the first 10-year maintenance period. The 2028 emissions inventory is projected from the EPA's 2011

version 6.3 modeling platform.⁹ The 2028 scenario was used to support past air quality modeling to support the regional haze program. The 2028 summer day emissions inventory for the Indianapolis, La Porte County, South Bend-Elkhart, and Louisville areas are summarized in Tables 7 through 10 below.

Table 7. Indianapolis area typical summer day VOC and NO_x emissions for maintenance year 2028 (tpd)

Source Category	VOC	NO_x
Nonroad	17.71	13.93
Onroad	15.95	28.53
Point	6.59	24.30
Area	51.46	13.34
Total	91.71	80.10

Table 8. La Porte County area typical summer day VOC and NO_x emissions for maintenance year 2028 (tpd)

Source Category	VOC	NO_x
Nonroad	1.69	1.41
Onroad	1.12	2.94
Point	1.28	0.53
Area	4.10	2.71
Total	8.19	7.65

Table 9. South Bend-Elkhart area typical summer day VOC and NO_x emissions for maintenance year 2028 (tpd)

Source Category	VOC	NO_x
Nonroad	4.44	3.56
Onroad	3.34	5.09
Point	7.46	4.12
Area	14.26	4.90
Total	29.50	17.67

Table 10. Louisville area typical summer day VOC and NO_x emissions for maintenance year 2028 (tpd)

	Source Category	VOC	NO_x
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⁹The inventory documentation for this platform can be found here: <https://www.epa.gov/air-emissions-modeling/2011-version-63-platform>.

Indiana portion of area (Clark and Floyd counties)	Nonroad	1.59	1.14
	Onroad	1.25	2.77
	Point	1.70	6.72
	Area	5.57	1.11
	Total	10.11	11.74
Entire area	Nonroad	7.94	5.76
	Onroad	6.45	12.78
	Point	30.58	27.42
	Area	30.29	10.33
	Total	75.26	56.29

In addition, IDEM is demonstrating maintenance through 2030 by showing that future emissions of VOC and NO_x for the Cincinnati and Chicago areas remain at or below attainment year emission levels. 2030 is an appropriate maintenance year for these areas because it is more than 10 years beyond the first 10-year maintenance period. Indiana projected emissions to the year 2030 from EPA's 2028 emissions projected using the EPA's 2011 version 6.3 model platform. The 2030 summer day emissions inventory for Cincinnati and Chicago areas are summarized in Tables 11 through 12 below.

Table 11. Cincinnati area typical summer day VOC and NO_x emissions for maintenance year 2030 (tpd)

	Source Category	VOC	NO_x
Indiana portion of area (Dearborn county)	Nonroad	0.34	0.25
	Onroad	0.34	0.65
	Point	3.94	1.79
	Area	1.35	0.34
	Total	5.97	3.03
Entire area	Nonroad	17.30	8.72
	Onroad	9.71	16.11
	Point	15.25	41.24
	Area	47.73	14.71
	Total	89.99	80.78

Table 12. Chicago area typical summer day VOC and NO_x emissions for maintenance year 2030 (tpd)

	Source Category	VOC	NO_x
Indiana portion of area (Lake and Porter counties)	Nonroad	8.81	9.73
	Onroad	3.12	6.73
	Point	17.61	67.99
	Area	15.88	5.38
	Total	45.42	89.83
Entire area	Nonroad	91.81	70.01
	Onroad	22.80	71.23
	Point	57.95	141.46
	Area	201.20	71.37
	Total	373.76	354.07

Tables 13 through 18 below show the changes in VOC and NO_x emissions between the attainment year (2014) and maintenance year (2028 or 2030) for each maintenance area.

Table 13. Change in typical summer day VOC and NO_x emissions in the Indianapolis area between 2014 and 2028 (tpd)

Source Category	VOC			NO_x		
	2014	2028	Net Change (2014-2028)	2014	2028	Net Change (2014-2028)
Nonroad	20.21	17.71	-2.50	27.64	13.93	-13.71
Onroad	53.04	15.95	-37.09	110.53	28.53	-82.00
Point	5.31	6.59	1.28	29.68	24.30	-5.38
Area	66.47	51.46	-15.01	9.26	13.34	4.08
Total	145.03	91.71	-53.32	177.11	80.10	-97.01

Table 14. Change in typical summer day VOC and NO_x emissions in the La Porte area between 2014 and 2028 (tpd)

Source Category	VOC			NO_x		
	2014	2028	Net Change (2014-2028)	2014	2028	Net Change (2014-2028)
Nonroad	2.83	1.69	-1.14	2.42	1.41	-1.01
Onroad	3.96	1.12	-2.84	10.55	2.94	-7.61
Point	1.33	1.28	-0.05	3.83	0.53	-3.30
Area	5.73	4.1	-1.63	4.46	2.77	-1.69
Total	13.85	8.19	-5.66	21.26	7.65	-13.61

Table 15. Change in typical summer day VOC and NO_x emissions in the South Bend-Elkhart area between 2014 and 2028 (tpd)

Source Category	VOC			NO _x		
	2014	2028	Net Change (2014-2028)	2014	2028	Net Change (2014-2028)
Nonroad	5.74	4.44	-1.30	6.64	3.56	-3.08
Onroad	12.66	3.34	-9.32	23.35	5.09	-18.26
Point	6.23	7.46	1.23	2.71	4.12	1.41
Area	22.86	14.26	-8.60	6.14	4.90	-1.24
Total	47.49	29.50	-17.99	38.84	17.67	-21.17

Table 16. Change in typical summer day VOC and NO_x emissions in the Louisville area between 2014 and 2028 (tpd)

Source Category	VOC			NO _x		
	2014	2028	Net Change (2014-2028)	2014	2028	Net Change (2014-2028)
Indiana portion of the area (Clark and Floyd counties)						
Nonroad	1.99	1.59	-0.40	2.19	1.14	-1.05
Onroad	4.38	1.25	-3.58	12.31	2.77	-9.54
Point	2.02	1.70	-0.32	4.60	6.72	2.12
Area	9.70	5.57	-4.13	0.95	1.11	0.16
Total	18.54	10.11	-8.43	20.05	11.74	-8.31
Entire Area						
Nonroad	9.61	7.94	-1.67	10.98	5.76	-5.22
Onroad	25.03	6.45	-18.58	52.13	12.78	-39.35
Point	32.49	30.58	-1.91	59.71	27.42	-32.29
Area	50.94	30.29	-20.65	10.27	10.33	0.06
Total	118.07	75.26	-42.81	133.09	56.29	-76.80

Table 17. Change in typical summer day VOC and NO_x emissions in the Cincinnati area between 2014 and 2030 (tpd)

Source Category	VOC			NO _x		
	2014	2030	Net Change (2014-2030)	2014	2028	Net Change (2014-2030)
Indiana portion of the area (Dearborn County)						
Nonroad	0.47	0.34	-0.13	0.53	0.25	-0.28
Onroad	1.76	0.34	-1.42	3.94	0.65	-3.29
Point	5.54	3.94	-1.60	9.62	1.79	-7.83
Area	1.39	1.35	-0.04	0.20	0.34	0.14
Total	9.16	5.97	-3.19	14.29	3.03	-11.26
Entire Area						
Nonroad	20.39	17.30	-3.09	22.30	8.72	-13.58
Onroad	39.23	9.71	-29.52	82.20	16.11	-66.09
Point	15.73	15.25	-0.48	91.69	41.24	-50.45
Area	79.97	47.73	-32.24	20.60	14.71	-5.89
Total	155.32	89.99	-65.33	216.79	80.78	-136.01

Table 18. Change in typical summer day VOC and NO_x emissions in the Chicago area between 2014 and 2030 (tpd)

Source Category	VOC			NO _x		
	2014	2030	Net Change (2014-2030)	2014	2028	Net Change (2014-2030)
Indiana portion of the area (Lake and Porter counties)						
Nonroad	18.08	8.81	-9.27	15.66	9.73	-5.93
Onroad	11.59	3.12	-8.47	28.05	6.73	-21.32
Point	12.99	17.61	4.62	71.24	67.99	-3.25
Area	20.00	15.88	-4.12	12.52	5.38	-7.14
Total	62.66	45.42	-17.24	127.47	89.83	-37.64
Entire Area						
Nonroad	94.43	91.81	-2.62	96.73	70.01	-26.72
Onroad	129.41	22.80	-106.61	258.94	71.23	-187.71
Point	51.33	57.95	6.62	146.39	141.46	-4.93
Area	225.47	201.20	-24.27	97.50	71.37	-26.13
Total	500.64	373.76	-126.88	599.57	354.07	-245.49

The maintenance demonstrations for the Indianapolis, La Porte County, South Bend-Elkhart, and the Indiana portions of the Chicago, Cincinnati, and Louisville areas show maintenance of the 1997 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NO_x and VOC will remain at or below 2014 emission levels when considering both future source growth and implementation of future controls.

3. Continued Air Quality Monitoring

IDEM has committed to continue to operate an approved ozone monitoring network in the Indianapolis, La Porte County, South Bend-Elkhart, Chicago, and Louisville areas.¹⁰ IDEM has committed to consult with EPA prior to making changes to the

¹⁰ Indiana does not have any ozone monitoring site located within their portion of the Cincinnati maintenance area. Indiana will consult with EPA should changes become necessary.

existing monitoring network should changes become necessary in the future. IDEM remains obligated to meet monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the Air Quality System in accordance with Federal guidelines.

4. Verification of Continued Attainment

The State of Indiana has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plans for the areas addressed in this action. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the areas' emissions inventories. IDEM has committed to continue to operate an approved ozone monitoring network in the Indianapolis, La Porte County, South Bend-Elkhart, Chicago, Cincinnati, and Louisville maintenance areas. IDEM will not discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by EPA.

In addition, to track future levels of emissions, IDEM has committed to continue to develop and submit to EPA updated emission inventories for all source categories at least once

every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122.

5. Contingency Plan

Section 175A of the CAA requires that the state must adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: the contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and, a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Indiana has adopted a contingency plan for the Indianapolis, La Porte County, South Bend-Elkhart, Chicago, Cincinnati, and Louisville maintenance areas to address possible future ozone air quality problems.

The contingency plan adopted by Indiana has two levels of response, a warning level response and an action level response.

In Indiana's plan, a warning level response will be triggered when an annual fourth high monitored value of 0.088 ppm or higher is monitored within the maintenance area. A warning level response will consist of IDEM conducting a study to determine whether the ozone value indicates a trend toward higher ozone values or whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation as well as economic and social impacts. Implementation of necessary controls in response to a warning level response trigger will take place within 12 months from the conclusion of the most recent ozone season.

In Indiana's plan, an action level response is triggered when a two-year average fourth high value of 0.084 ppm or greater is monitored within the maintenance area. A violation of the 1997 ozone standard within the maintenance area also triggers an action level response. In the event that the action level is triggered and is not found to be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, IDEM will determine what additional control measures are needed to assure future attainment of the ozone

standard. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. IDEM may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

IDEM included the following list of potential contingency measures in its maintenance plan for the Indianapolis, La Porte County, South Bend-Elkhart, Cincinnati, and Louisville areas:

1. Lower Reid vapor pressure gasoline program.
2. Broaden the geographic applicability of existing measures.
3. Adoption of VOC reasonably available control technology (RACT) on existing sources covered by EPA Control Technique Guidelines issued after the 1990 CAA.
4. Application of VOC RACT to smaller existing sources.
5. Application of modern vehicle inspection/maintenance program.
6. Requirements for one or more transportation control measures sufficient to achieve at least half a percent reduction in actual area wide VOC emissions.

Transportation measures will be selected from the

following, based upon the factors listed above after consultation with affected local governments:

- a. trip reduction programs, including, but not limited to, employer-based transportation management plans, area wide rideshare programs, work schedule changes, and telecommuting;
 - b. traffic flow and transit improvements; and
 - c. other new or innovative transportation measures not yet in widespread use that affected local governments deem appropriate.
7. Application of alternative fuel and diesel retrofit programs for fleet vehicle operations.
 8. Requirements for controls on consumer products consistent with those adopted elsewhere in the United States.
 9. Requirements of VOC or NO_x emission offsets for new and modified major sources.
 10. Requirements of VOC or NO_x emission offsets for new and modified minor sources.
 11. Increasing the ratio of emission offsets required for new sources.
 12. Requirements for VOC or NO_x controls on new minor sources.

IDEM included the following list of potential contingency measures in its maintenance plan for the Chicago area:

- 1) Requirements for enhancements to the vehicle emission testing program (increased weight limit, addition of diesel vehicles, etc.).
- 2) Asphalt paving (lower VOC formulation).
- 3) Diesel exhaust retrofits.
- 4) Traffic flow improvements.
- 5) Idle reduction programs.
- 6) Adoption of portable fuel container regulations (state-wide).
- 7) Park and ride facilities.
- 8) Rideshare/carpool program.
- 9) Requirements for VOC capture/trade program for major stationary sources.
- 10) Application of NO_x RACT.

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan.

EPA has concluded that Indiana's maintenance plan adequately addresses the five basic components of a maintenance plan. Thus, EPA finds that the maintenance plan SIP revisions submitted by IDEM for the Indianapolis, La Porte County, and South Bend-Elkhart areas and the Indiana portions of the Chicago, Cincinnati, and Louisville areas meet the requirements of section 175A of the CAA.

B. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as "that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions" (40 CFR 93.101).

The South Coast II court decision upheld EPA's revocation of the 1997 ozone NAAQS, which was effective on April 6, 2015.

EPA's current transportation conformity regulation requires a regional emissions analysis only during the time period beginning one year after a nonattainment designation for a particular NAAQS until the effective date of revocation of that NAAQS (40 CFR 93.109(c)). Therefore, pursuant to the conformity regulation, a regional emissions analysis using MVEBs is not required for conformity determinations for the 1997 ozone NAAQS because that NAAQS has been revoked (80 FR 12264). As no regional emissions analysis is required for the maintenance areas in Indiana, transportation conformity for the 1997 ozone NAAQS can be demonstrated by a Metropolitan Planning Organization and the State's Department of Transportation for transportation plans and TIPS by showing that the remaining criteria contained in Table 1 in 40 CFR 93.109, and 40 CFR 93.108 have been met.

IV. Proposed Action

Under section 175A of the CAA and for the reasons set forth above, based on Indiana's representations and commitments set forth above, EPA is proposing to approve the second maintenance plans for the 1997 ozone NAAQS for the Indianapolis, La Porte County, and South Bend-Elkhart areas and the Indiana portions of the Chicago, Cincinnati, and Louisville areas, submitted by IDEM on June 20, 2019, as a revision to the Indiana SIP. These maintenance plans are designed to keep these areas in attainment

of the 1997 ozone NAAQS through the second 10-year maintenance period.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a significant regulatory action under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian

tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 11, 2019.

Cheryl L Newton,
Acting Regional Administrator, Region 5.

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